

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2017-228-S - ORDER NO. 2018-__
March __, 2018

RE: Application of Palmetto Utilities, Inc.) for Adjustment of Rates and Charges) for, and Modification to Certain) Terms and Conditions related to, the) Provision of Sewer Service in its) Palmetto Utilities and Palmetto of) Richland County Service Areas)	PROPOSED ORDER OF PALMETTO UTILITIES, INC.
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This matter comes before the Public Service Commission of South Carolina (“Commission”) on the Application of Palmetto Utilities, Inc. (“Palmetto” or “Company”), for an increase in rates and charges for the provision of sewer service and the modification of certain terms and conditions related to the provision of such service.

I. INTRODUCTION

Palmetto filed its Application on August 31, 2017, pursuant to S.C. Code Ann. § 58-5-240 (2015) and 10 S.C. Code Regs. 103-503 and 103-512.4A (2012) based on a proposed test year ending March 31, 2017. By letter dated September 20, 2017, the Commission Clerk’s Office instructed Palmetto to publish a prepared Notice of Filing, one time, in newspapers of general circulation in the area affected by Palmetto’s Application and to mail copies of the Notice of Filing to all customers affected by the proposed rates and charges. The Notice of Filing indicated the nature of the Application and advised all interested parties desiring to participate in the scheduled proceeding of the manner and time in which to file the appropriate pleadings. On October 19, 2017, Palmetto filed an affidavit and a certificate showing that it had complied with the instructions of the Clerk’s office.

Petitions to Intervene were subsequently filed on behalf of J-Ray, Inc. and Sensor Enterprises, Inc., which were granted by Order No. 2017-694 issued November 1, 2017. No other petition to intervene was filed in this case in response to the Notice of Filing and Hearing. Pursuant to S.C. Code Ann. § 58-4-10(B) (2015), the South Carolina Office of Regulatory Staff (“ORS”) is

a party of record in this proceeding.

II. TESTIMONY RECEIVED FROM THE PARTIES AND PUBLIC WITNESSES

On January 9, 2018, the Commission held a public night hearing at its offices for the purpose of allowing Palmetto's customers to present their views regarding the Application. Nineteen customers¹ testified at this hearing. The Honorable Swain E. Whitfield, Chairman of the Commission, presided. Thereafter, on January 17, 2018, at 10:30 a.m., a public hearing to receive evidence was held in the offices of the Commission with Commissioner Whitfield again presiding. Palmetto was represented at the hearings by John M.S. Hoefer, Esquire, and Benjamin P. Mustian, Esquire. Jeffrey M. Nelson, Esquire, and Jenny R. Pittman, Esquire, represented ORS. Although an appearance of record by counsel was entered for J-Ray, Inc. and Sensor Enterprises, Inc. by virtue of their petitions to intervene, no counsel nor other representative of these intervenors appeared at the hearings to present evidence or cross-examine witnesses in this matter. Seven customers of Palmetto, including two of whom had testified at the public night hearing, testified at the January 17 evidentiary hearing.² Accordingly, a total of 24 customers testified in this matter.

Palmetto presented the direct testimonies of five witnesses: (1) Donald J. Clayton, a registered professional engineer in the Commonwealth of Pennsylvania, Chartered Financial Analyst, and Certified Depreciation Professional who prepared the Company's rate filing as an outside consultant³; (2) Marion F. Sadler, an environmental and utility consultant retired after 34 years of employment by the South Carolina Department of Health and Environmental Control ("DHEC") in the areas of utility permitting and development of DHEC regulations for wastewater design guidelines, who advised and assisted Palmetto on its study to determine the number of single family equivalencies ("SFEs") existing in the portion of the Company's authorized service area formerly served by Palmetto of Richland County, LLC ("PRC")⁴; (3) Andrena-Powell Baker,

¹ Although twenty persons presented testimony at this night hearing, James Abraham and Stacy Parish reside at the same premises served by Palmetto [*see* Hearing Exhibit No. 1 at pp. 3-4] and only Mr. Abraham is a customer of the Company. [Tr. p. 311, ll. 2-3.]

² Tr. p. 154, ll. 11 - 25. Although Samuel T. Brick testified at this hearing, Hearing Exhibit 2 reflects that he is not the customer of record at his residence.

³ Tr. p. 329, ll. 11-13, p. 330, ll. 9-19.

⁴ [Tr. p.340, l. 3 - p. 345, l.2.

Senior Manager of Community Relations and Development for Palmetto⁵; (4) Bryan D. Stone, Chief Operating Officer of Palmetto⁶; and (5) Mark S. Daday, Chief Financial Officer of Palmetto⁷. Mr. Daday also gave rebuttal testimony on behalf of Palmetto.⁸ By agreement of the parties participating in the hearing, and with the Commission's approval, Mr. Clayton's verified direct testimony with exhibits and Mr. Sadler's verified direct testimony with exhibits were stipulated into the record.

The direct testimony of three witnesses was presented by ORS: 1) Aisha L. Butler, Senior Auditor in the ORS Audit Department⁹; 2) Michael-Seaman Huynh, Senior Regulatory Manager in the ORS Utility Rates and Services Division¹⁰; and 3) Willie J. Morgan, P.E., ORS Deputy Director for Utility Rates¹¹. In addition, ORS presented surrebuttal testimony of Ms. Butler¹², Mr. Morgan¹³, and Douglas H. Carlisle, Ph.D., its Economist¹⁴. By agreement of the parties participating at the hearing, and with the Commission's approval, Mr. Morgan's direct testimony with exhibits and surrebuttal testimony with exhibits were adopted by his supervisor, Dawn M. Hipp, Director of the ORS Utility Rates and Services Department. Also, by agreement of the parties participating at the hearing, and with the Commission's approval, Dr. Carlisle's verified surrebuttal testimony with exhibits was stipulated into the record.

At the beginning of the hearing, ORS moved to include in the record of evidence in this case two written stipulations entered into between ORS and Palmetto on January 5, 2018 regarding a disputed issue in this proceeding, specifically the inclusion in allowable plant of the wastewater collection and transportation system previously approved by the Commission to be acquired by

⁵ Tr. p. 176, l.1 - p.183, l. 22.

⁶ Tr. p. 191, l.1 - p. 206, l.20.

⁷ Tr. p. 216 l. 1 - p. 232, l.19.

⁸ Tr. p. 243, l. 1 - p. 257, l. 21.

⁹ Tr. p. 398, l.10 - p. 415, l.18.

¹⁰ Tr. p. 380 l. 10 - p. l. 389, l.5

¹¹ Tr. p. 371, l.10 - p. 375, l. 4.

¹² Tr. p. 418, l. 11 - p. 430, l.10.

¹³ Tr. p. 371, l. 10 - p.375, l. 4.

¹⁴ Tr. p. 446, l. 11 - p. 448, l. 2.

PRC from the City of Columbia. *See* Order No. 2012-960, Docket No. 2012-73-S, issued December 21, 2012. This system became part of the Palmetto system as a result of the Commission's approval of the merger of PRC into Palmetto. *See* Order No. 2017-433, Docket No. 2017-105-S, issued July 11, 2017. Under the terms of these stipulations, this disputed issue is reserved for a determination in a future rate proceeding, and the fact that it is not resolved in the instant proceeding does not preclude either Palmetto or ORS from taking a position regarding the valuation of this system or inclusion in plant for ratemaking purposes in any such future proceeding. As a result of these stipulations, some Eighteen Million (\$18,000,000) Dollars in assets claimed by Palmetto to form part of allowable plant would not be considered in this proceeding for purposes of determining just and reasonable rates. The Commission accepts these stipulations and therefore is not considering the value of this disputed plant for ratemaking purposes in the instant proceeding.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. BACKGROUND

Palmetto is a public utility providing sewer service to approximately 26,200 residential, commercial, and industrial customers as of March 31, 2017¹⁵ (or approximately 32,080 SFEs) [Hg. Exhibit 11, MSH-2 at 1.] These customers are located in certain unincorporated areas of northeastern Richland County, the Town of Blythewood, and an adjoining area in southwestern Kershaw County.¹⁶ As a public utility, its operations are subject to the jurisdiction of the Commission pursuant to S.C. Code Ann. §§ 58-5-10 *et seq.* (2015).

In 1987, Palmetto was designated by Richland County to be the implementing agent under the Federal Clean Water Act Water Quality Management Plan adopted by the Central Midlands Council of Governments for the regional system designated to serve northeastern Richland County ("208 Plan").¹⁷ Under the 208 Plan, wastewater flows from several small treatment plants, along

¹⁵ Tr. p. 382, ll. 9-11.

¹⁶ Tr. p. 382, ll. 5-6; Tr. p. 193, ll. 16-23.

¹⁷ Tr. p.87, line 23 – 25; p.204 ll. 3-8; p. 221, ll. 13-17.

with flow from the former PRC territory previously treated by the City of Columbia, have been diverted to the Company's Spears Creek Regional Wastewater Treatment Plant ("WWTP") that has been constructed by the Company in the Wateree River drainage basin on Spears Creek.¹⁸

Since its last rate relief proceeding, Palmetto has made approximately \$80 million in capital investments in a series of upgrades and improvements to its facilities.¹⁹ Included in these investments is the construction of a pipeline (the "Northern Pipeline" or "PRC Pipeline") to transport wastewater flow from the customers in the former PRC service area previously treated by the City of Columbia, which also addressed bottlenecking issues with Palmetto's previously existing collection and transportation lines, opened additional areas to development, and comported with the 208 Plan.²⁰ The PRC Pipeline project also included the installation of a new, larger capacity lift station at Kelly Mill Road.²¹ In order to handle current average, peak and committed flow from the entire Palmetto system, Palmetto expanded the capacity of the WWTP from six million gallons per day ("MGD") to twelve MGD.²² This amount of flow could not be disposed of by land application in the rapid infiltration basins ("RIBs") previously utilized by Palmetto. Therefore, Palmetto installed an effluent outfall line (the "Wateree Discharge Pipeline") approximately 12 miles in length and capable of transporting twelve MGD of treated wastewater from the WWTP to a discharge point on the Wateree River in Kershaw County as contemplated by the 208 Plan.²³ Since effluent from the WWTP was to now be disposed of by discharge into the Wateree River as opposed to land application in the RIBs, Palmetto upgraded the treatment process at the WWTP to include a sequencing batch reactor system and ultraviolet disinfection system capable of meeting permit limits under its National Pollutant Discharge Elimination System ("NPDES") permit issued by DHEC.²⁴ These new plant facilities are in operation and serving

¹⁸ Tr. p. 247, ll. 19-21.

¹⁹ Tr. p. 195, ll.6 – 9.

²⁰ Tr. p. 196, l.1 - p. 198, l. 12.

²¹ Tr. p. 195, ll. 16-19; p. 204, ll. 20-22; p. 205, l.17 – p. 206, l.3.

²² Tr. p. 199, ll. 3-15; p. 200, ll. 4-14.

²³ Tr. p. 201, l.18 - p.203, l. 11.

²⁴ Tr. p.199, l.16 - p. 201, l. 17; Hearing Exhibit 11, Ex. MSH-1, p.3

customers.²⁵ These new facilities – as well as the previously existing facilities used by Palmetto in providing sewer service – are all operating in conformance with both Commission and DHEC requirements, rules, and regulations.²⁶

B. PALMETTO'S APPLICATION

Palmetto's current schedule of rates and charges for customers (other than customers in the former PRC service area) was approved by Commission Order No. 2015-153, issued March 3, 2015, in Docket No. 2013-42-S. Under that schedule, Palmetto charges residential customers a flat rate of \$36.50 per month. Commercial customers, including industrial customers, are charged a flat monthly rate of \$36.50 per SFE.

By contrast, Palmetto's current schedule of rates and charges for customers in the former PRC service area was authorized by Commission Order No. 2012-960, issued December 21, 2012, in Docket No. 2012-273-S, and continued identically the schedule of rates and charges (including base facilities fee and consumption charge) then being charged by the City of Columbia to these PRC customers. Under that PRC schedule, Palmetto charges residential customers²⁷ a monthly base fee of \$10.20 and a monthly consumption charge of \$4.93 per 100 cubic feet of water consumed, with the average residential customer in the former PRC service area currently paying \$41.60 per month for sewer service. Commercial customers in the former PRC service area pay a monthly base facilities fee ranging from \$10.20 to \$255, but the same consumption charge as residential customers.

Palmetto seeks to accomplish two primary goals in its Application: (1) increase its monthly sewer service revenues; and (2) consolidate the rate designs and tariff provisions so that all customers (including the former PRC customers) pay the same flat monthly sewer service charges and the same non-recurring charges. It proposes to do this by having a uniform rate schedule that would generate \$11,392,065 in additional annual revenue based on (1) a flat monthly residential

²⁵ Tr. p. 365, ll. 3-7; Hearing Exhibit 11, Ex. MSH-1, p.3.

²⁶ Application Exhibit C; Tr. p. 365, ll. 3-7; Hearing Exhibit 11, Ex. MSH-1, p.3; Tr. p. 372, ll. 4-10.

²⁷ There are three residential customers utilizing a larger water meter, who pay a base facilities fee of \$16.32 per month, but the same consumption charge as other residential customers. Hearing Exhibit 11, Ex. MSH-2, p.1.

service fee of \$68.05; (2) a flat monthly commercial service fee of \$68.05 per SFE based on the capacity loading guidelines contained in 6 S.C. Code Ann. Regs. 61-67, Appendix A (Supp. 2016); and (3) a reduction in non-recurring charges for new customers in the former PRC service to those previously approved by the Commission for Palmetto in Order No. 2015-153.²⁸ With regard to the non-recurring charges, this would require a reduction in the currently-approved (1) connection charges from \$1,300/\$300 to \$250; (2) plant expansion/impact fee from \$2,640 to \$800; and (3) customer account fee from \$30 to \$20. (The higher figures are those now applicable to the customers in the former PRC service territory and the lower figures are those now applicable to customers in the Palmetto service territory.)

C. RATE MAKING METHODOLOGY

Generally, the Commission has wide latitude to determine an appropriate rate-setting methodology. *Heater of Seabrook, Inc. v. Public Service Comm'n*, 324 S.C. 56, 478 S.E.2d 826 (1996). The operating margin methodology typically is appropriate where a utility's rate base has been substantially reduced by customer donations, tap fees, contributions in aid of construction ("CIAC"), and book value in excess of investment. *Id.* The operating margin is "[d]etermined by dividing the net operating income for return by the total operating revenues of the utility." *Heater of Seabrook, Inc. v. Public Service Comm'n*, 332 S.C. 20, 24, 503 S.E.2d 739, 741, n.1 (1998).

In this case, although Palmetto's rate base is significant, it has been substantially reduced by CIAC.²⁹ However, more importantly, Palmetto did not seek to have its rates set employing rate base methodology because its analysis showed that the additional annual revenue requirement, assuming a return on equity in the 10% range, would have been higher than the \$11,392,065 requested, and Palmetto was already mindful of the effect on customers.³⁰ Further, Palmetto presented testimony concerning the operating margin resulting from the proposed rates.³¹ ORS

²⁸ Application Exhibits A and B.

²⁹ See, e.g., Hearing Exhibit 13, ALB-3

³⁰ Tr. p. 255, l. 18 - p. 256, l. 5.

³¹ Tr. p. 334, ll. 7-14.

provided testimony concerning a range of appropriate operating margins for Palmetto³² and did not oppose the use of the operating margin methodology.³³ There was no evidence presented supporting the use of any other ratemaking methodology. Accordingly, the Commission will utilize operating margin in setting Palmetto's rates in this case.

D. TEST YEAR

The test year is established to provide a basis for making the most accurate forecast of the utility's rate base, reserves, and expenses in the near future when the prescribed rates are in effect. *Porter v. South Carolina Pub. Serv. Comm'n*, 328 S.C. 222, 493 S.E.2d 92 (1997). The historical test year may be used as long as adjustments are made for any known and measurable out-of-period changes in expenses, revenues, and investments. *Id.* Palmetto's financial statements in this case used a test year ending March 31, 2017.³⁴ ORS utilized the same test year in conducting its examination.³⁵ Given that this test year ended within five months of the filing of Palmetto's Application, and since no other test year was proposed, the test year ending March 31, 2017, is appropriate and will be used in this case.

E. ADJUSTMENTS TO REVENUES

ORS calculates Palmetto's test-year revenues as \$16,256,412 and proposes to adjust these revenues upward by \$184,101 (to total \$16,440,513) to normalize test year revenue using consumption data provided by Palmetto.³⁶ Palmetto did not oppose this adjustment to test-year revenues, and accordingly, the Commission finds that \$16,440,513 reflects the correct level of revenues for Palmetto for the test year after adjustments. ORS determined, and Palmetto did not disagree, that Palmetto's schedule of rates for sewer service and non-recurring charges proposed in its Application, if approved, would increase its operating revenues by \$10,707,467.³⁷

³² Tr. p. 368, ll. 8-16, p. 432, ll. 1-4.

³³ Tr. p. 434, ll. 9-16.]

³⁴ Application Exhibit B; Tr. p. 331, l.20.

³⁵ Tr. p. 368, ll. 10-11.

³⁶ Tr. p. 384 ll. 18-19; Hearing Exhibit 13, Surrebuttal Ex. ALB-2 at 1.

³⁷ *Id.*, Tr. pp. 243-257.

F. ADJUSTMENTS TO EXPENSES

The Commission adopts the ORS expense adjustments other than for certain matters (discussed below) for five categories of expenses which are at issue: (1) interest expense, (2) sludge expense, (3) extraordinary retirement allowance, (4) income tax expense, and (5) rate case expense. The Commission adopts the position of Palmetto in some instances and the position of the ORS in others. The net result of the Commission's conclusions results in Palmetto's allowable expenses for the test year (after pro forma and accounting adjustments) being \$16,446,936.

1. INTEREST EXPENSE

Palmetto seeks to include as allowable expenses, \$2,145,274 in interest paid on loans during the test year.³⁸ ORS did not assert that any part of the claimed interest expense had not been paid or that the interest rates on the loans were unreasonable. Nonetheless, ORS proposed to reduce Palmetto's requested interest expense by \$365,764 and thereby allow only \$1,779,510. ORS computed this adjustment by synchronizing (A) the amount of actual interest paid and booked on Palmetto's financial statements, to (B) rate base, using an assumed 45% / 55% debt to equity capital structure and an average cost of debt of 4.84%.³⁹

Palmetto argues that interest synchronization is inappropriate, citing the November 19, 2001, Order of the Court of Common Pleas for Richland County in *Palmetto Utilities, Inc. v. Public Service Commission*, C/A No. 2000-CP-40-3888 (2001).⁴⁰ There, the Circuit Court (acting in an appellate capacity), reversed the Commission's application of interest synchronization to Palmetto because, *inter alia*, the Company's rates were not determined utilizing rate base methodology, which "necessarily focuses on the amount of investment on which a utility is entitled to earn a return." The Circuit Court then stated operating margin methodology is "fundamentally different" from rate base methodology (because it does not allow a return on investment), and thus the application of interest synchronization – which utilizes a capital structure and weighted average cost of debt to reduce allowable interest expense -- is inappropriate in operating margin cases.

³⁸ Application Exhibit 5 at p.4; Tr. p. 254, l.13; Hearing Exhibit 13, Surrebuttal Ex. ALB-1

³⁹ Tr. p.390, ll.16-23; Hearing Exhibit 12; Tr. p.427, l.21 – p.428, l.12; Hearing Exhibit 13, Surrebuttal Ex. ALB-1.

⁴⁰ Tr. p.239, ll. 4-18; Tr. p. 254, ll.2-5.

ORS makes two arguments in supporting interest synchronization. First, Ms. Butler referred to several orders of the Commission, including the Commission's 1992 order in *Application of Midlands Utility, Inc.*, Order No. 92-84, in which she contends that interest synchronization was applied to reduce a utility's interest expense. However, our reading of the *Midlands Utility* Order (rendered nine years before *Palmetto Utilities Inc.* in 2001) would cut decidedly in Palmetto's favor. *Midlands Utility* specifically held that "if proceeds from debt increase rate base, interest synchronization will effectively assign the assigned interest expense to the ratepayers; if the proceeds from debt are used for other purposes, interest synchronization will effectively assign the associated interest expense to the shareholders." *Id.* pages 6-7. Here, ORS presented no evidence whatsoever that Palmetto's debt proceeds were used for other purposes – instead they were specifically used to build rate base.⁴¹ Thus, even if interest synchronization were available in operating margin cases, *Midlands Utility* would hold that it is not appropriate here. Furthermore, as discussed in detail in Note 48, the other Orders cited do not stand for the proposition that Ms. Butler asserts.⁴² Similarly, ORS's calculation of a weighted average cost of debt and capital structure does not inform the Commission as to what part of Palmetto's financing costs relate to its rate base. [Hearing Exhibit 8.]⁴³

⁴¹ ORS initially calculated Palmetto's rate base at \$81.58 million [Tr. p. 413, ll. 20-21, Hearing Exhibit 12, ALB-1] and subsequently calculated it at \$81.70 Million after additional adjustments. [Tr. p. 428, l.6, Hearing Exhibit 13, Surrebuttal Ex. ALB-5.] However, nothing in its calculation establishes what, if any, part of the Company's loans was unrelated to financing the \$81.58 million rate base.

⁴² ORS cited Order 90-984 (Lake Moultrie Water Co.) and Order No. 92-131 (Heater of Seabrook), but there is no mention of interest synchronization in either Order. In Order No. 90-654 (Wild Dunes) and Order No. 90-694 (Carolina Water Service), interest synchronization was used to adjust income taxes, not interest. In Order No. 91-1023 (Woodland Utilities), interest synchronization was applied to prevent the utility from using revenues "to cover prior operating losses," to "[e]nsure that ratepayers will not pay for interest expense incurred for non-utility purposes," and keep from "encourag[ing] the utility to avoid the ratemaking process." (*Id.* at p. 16.) In Order No. 91-881 (Heater Utilities), interest synchronization is not specifically discussed, although the Commission applied the capital structure adopted for the utility to reduce allowable interest expense without any analysis of the issue. Moreover, ORS's reliance upon the Commission's prior practices regarding interest synchronization does not provide substantial evidence upon which the Commission may base a determination that the proposed adjustment is warranted. *See Utilities Services of South Carolina, Inc. v. Office of Regulatory Staff*, 392 S.C. 96, 113, 708 S.E.2d 755, 765 (2011) (holding that determinations based on treatment accorded other utilities absent evidentiary basis for comparison is improper).

⁴³ The Commission also notes that, while ORS undertook the effort to determine a capital structure and estimate a weighted average cost of debt for Palmetto, it did not provide an opinion regarding what an appropriate return on equity for Palmetto might be. This may have allowed the Commission to make a determination of a return on rate base which could be used as a comparison point for the rates determined under the operating margin methodology. In the

Second, Ms. Butler contends that ORS applied interest synchronization in Palmetto's last rate case.⁴⁴ However, the interest amount approved in that case resulted from a settlement in which Palmetto and ORS expressly agreed that (1) the terms of the settlement agreement are not binding on Palmetto in future proceedings; and (2) the settlement agreement does not constitute evidence of acceptable practice in future proceedings. *See* Order No. 2015-153, Exhibit 1 at 4, para.8. Accordingly, ORS may not use that settlement agreement as precedent when it expressly agreed otherwise. Further, Palmetto's ostensible agreement to an interest synchronization adjustment as part of a global resolution of all issues in a prior matter is of no relevance in this case.⁴⁵

In conclusion, ORS's reliance upon *Midlands Utility, Inc.* is misplaced – because it would not allow interest synchronization here (even if it were available). Most importantly, the ORS's position is in direct opposition to the Circuit Court's ruling in *Palmetto Utilities, Inc. v. Public Service Commission* referenced above. This Commission should not disregard judicial decisions concerning its ratemaking decisions. The circumstance in the Circuit Court case is precisely the circumstance presented in this case,⁴⁶ and, therefore, the Commission is bound by the precedential decision of the Circuit Court. *See R.E. Lee & Co. v. Commission of Public Works*, 250 S.C. 394, 158 S.E.2d 185 (1967).⁴⁷ Accordingly, the Commission rejects ORS's proposed interest synchronization adjustment and finds that Palmetto's allowable interest expense is \$2,145,274.

2. SLUDGE DISPOSAL

Unadjusted test-year sludge disposal expense was \$248,779. Palmetto proposed to include

absence of any such evidence to the contrary, the Commission can only assume that, as Palmetto asserted, the additional revenue required under the return on rate base methodology would have been higher.

⁴⁴ Tr. p. 429, ll. 14-17.

⁴⁵ The same is even truer with respect to the Commission's orders in Docket Nos. 2016-222-WS (*Kiawah Island*) and 2016-29-WS (*Harbor Island*), which involved settlements between ORS and other utilities.

⁴⁶ As noted above, Palmetto did not seek to have rates set utilizing the return on rate base methodology because its analysis – which assumed a 10% ROE – indicated that it would need to request a higher amount of additional revenue than that which it sought by its Application. [Tr. p. 255, ll. 18 – 23.] ORS did not refute this assertion in its surrebuttal testimony or otherwise. In the absence of any evidence to the contrary, the Commission must assume that ORS has concluded that the public interest is served by not requiring Palmetto's rates to be set utilizing the return on rate base methodology in this proceeding. *Cf.* S.C. Code Ann. § 58-4-10(B) (2015).

⁴⁷ *Cf.* 330 *Concord Street Neighborhood Ass'n v. Campsen*, 309 S.C. 514, 517, 424 S.E.2d 538, 539 (Ct. App. 1992) (acknowledging that an administrative agency is not bound to follow **its own** precedents if its departure from same is not arbitrary).

\$408,708 in sludge disposal expense, which included a *pro forma* proposed adjustment of \$159,929, based on a pro-rata calculation using the gallons of wastewater expected to be treated and the historic cost for sludge disposal service. Palmetto's proposed adjustment reflects the fact that it expects its WWTP have a 64% increase in gallons processed as a result of the additional PRC-related flow.⁴⁸

Despite having acknowledged that "there will be an increase in sludge removal going forward," ORS asserted that the absence of "actual invoices" rendered the estimate insufficient and that the proposed adjustment was "not known and measurable."⁴⁹ ORS instead proposed to increase the test-year sludge disposal expense by only \$1,614 (a 0.64% increase, even though flow is expected to increase 64.0%). This proposed adjustment was based on actual sludge disposal invoices received by Palmetto during the twelve months ending October 31, 2017.⁵⁰

In rebuttal, Palmetto noted that ORS's reliance on the sludge disposal invoices through October 31, 2017, will not reflect the increase in sludge disposal costs because the newly expanded WWTP had only begun operation that month and thus, the sludge storage tanks were being filled up, which resulted in temporarily reduced sludge disposal expenses. [*Id.*] According to Palmetto, the amount of sludge created is directly proportional to the amount of flow.⁵¹ Nonetheless, Palmetto modified its proposed sludge disposal adjustment based on a conservative 50% increase in flow to the WWTP (versus 64%).⁵² In its surrebuttal testimony, ORS did not challenge Palmetto's contention that the amount of sludge created is directly proportional to the amount of flow. Nonetheless, ORS opposed Palmetto's proposed adjustment because it "cannot calculate with precision the amount of sludge the newly upgraded Spears Creek WWTP will generate" and therefore "cannot verify that the estimate proposed by Palmetto accurately reflects the costs."⁵³

⁴⁸ Tr. p. 248, l. 14 -p. 249, l. 14. This increase in flow occurred on October 4, 2017, when flow from the former PRC service area was diverted from the City of Columbia Metro WWTP to the Spears Creek Regional WWTP. Tr. p. 204, ll. 10-11, p. 372, ll. 12-13. ORS did not dispute this percentage increase in flow.

⁴⁹ Tr. p. 402, l. 19 – p. 403, l.1.

⁵⁰ Tr. p. 403, ll. 2-3.

⁵¹ Tr. p. 248, ll. 21-22.

⁵² Tr. p. 249, ll. 8 - 10.

⁵³ Tr. p. 373, ll.2-7.

For the reasons below, the Commission adopts Palmetto's proposed adjustment.

The fact that an expense is estimated does not mean that is not known and measurable. To the contrary, where (as here) an expense adjustment is based on historical data that is used to support a projected increase in that expense, it can satisfy the requirement that adjustments be known and measurable requirement. In *Hamm v. South Carolina Public Service Comm'n*, 309 S.C. 282, 291, 422 S.E.2d 110, 114 (1992), the Supreme Court affirmed the Commission's adjustment to account for projected increases in health care costs by a percentage based on the average increases in that cost over the three prior years. Here, Palmetto's original proposed adjustment projected an increase in the test year sludge disposal cost based upon the 64% increase in wastewater flow to the WWTP – a percentage increase which is clearly known and measurable and which was not refuted by ORS. Palmetto's modified proposed adjustment reduces that flow increase to 50% to arrive at a more conservative estimate of \$133,274 for the increase in this cost.⁵⁴

ORS has acknowledged that sludge removal costs will increase pro rata as a result of the increased flow into the WWTP; further, Palmetto's use of the percentage increase in that flow provides the "degree of reasonable certainty" required by *Hamm* to support Palmetto's proposed adjustment. The reduction in the flow's increase to 50% is conservative and reduces the possibility that the projected expense will be more than actually incurred. The Commission therefore finds that the projected increase in sludge removal cost is known and measurable within a reasonable degree of certainty and adopts Palmetto's modified proposed adjustment. As a result, Palmetto's allowable sludge disposal expense will be \$382,053.

3. EXTRAORDINARY RETIREMENT ALLOWANCE

When Palmetto initially filed its Application, it was utilizing the RIBs to dispose of the effluent from the WWTP.⁵⁵ Thus, it included in its Application as allowable plant (1) a drainage structure that routed seepage from the RIBs beneath Crabapple Lane (a dirt road maintained by

⁵⁴ Tr. p. 249, ll. 8-10. It is similarly clear that absolute precision is not required. As the Court held in *Hamm*, although "adjustments must be known and measurable within a reasonable degree of certainty ...[a]bsolute precision ... is not required." *Id.*

⁵⁵ Tr. p. 253, ll. 14-15.

Kershaw County) (the “Crabapple drainage system”)⁵⁶, and (2) a tract of land adjoining that road to receive and naturally disperse this seepage. Palmetto also included in its Application expenses associated with the operation of the RIBs and the Crabapple drainage system.⁵⁷

Because the RIBs were taken out of service, ORS removed \$140,073 in operating and maintenance expenses related to the RIBs, \$210,284 in net plant associated with the Crabapple drainage system, and \$200,063 for the adjoining land.⁵⁸ Palmetto does not dispute the removal of operating and maintenance expenses. However, it contends that it is entitled to an extraordinary retirement allowance for the \$410,347 removed by ORS from plant and land, with the same to be amortized over a five-year period (which generates \$82,069 in additional annual expenses).⁵⁹

ORS did not agree to an extraordinary retirement allowance for the Crabapple drainage system or the adjoining land on the theory they were installed and acquired “in an effort to mitigate and resolve the complaints and comply with the Consent Agreement” between Palmetto and DHEC arising from the seep from the RIBs.⁶⁰ ORS further asserts that because the land can be sold, an allowance for extraordinary retirement would be improper.⁶¹

The Commission agrees in part with Palmetto and in part with ORS. The closing of the RIBs and the associated Crabapple drainage system is a known and measurable change, as is evidenced by ORS’s removal of the related operations and maintenance expenses. Further, where wastewater disposal facilities installed by a utility are used and useful in providing service, they are allowable in plant for ratemaking purposes. *See Heater of Seabrook, Inc. v. Public Service Commission*, 332 S.C. 20, 24, 503 S.E.2d 739, 741, n.2 (1998), citing *Hamm, supra*, 309 S.C. at 285, 422 S.E.2d at 112 (1992) (public utility plant is “used and useful” where it is “necessarily

⁵⁶ Kershaw County also filed legal action which necessitated the construction of the Crabapple drainage system to address the fact that Crabapple Lane had been eroded by seepage from the RIBs and had become impassable. Tr. p. 202, ll. 13-16

⁵⁷ Tr. p. 253, ll. 15-16; Tr. p. 394, ll. 9-12.

⁵⁸ Tr. p. 425, l. 16 – p. 426, l. 2.

⁵⁹ Tr. p. 253, ll. 18-20.

⁶⁰ Tr. p. 374, l. 20 – p. 375, l. 1.

⁶¹ Tr. p. 375, ll. 1-2.

devote[d] to rendering the regulated service”).

Prudent operations, the legal action by Kershaw, and the DHEC Consent Agreement clearly required corrective action to address the seepage from the RIBs and ultimately the retirement of the RIBs themselves (due, among other reasons to nitrate levels in samples taken from the seepage).⁶² When facilities are installed at the behest of environmental regulatory authorities and local governments, the usefulness of those facilities from a ratemaking viewpoint becomes even more compelling – not less as ORS suggests is the case. The Crabapple drainage system installed by Palmetto and the acquisition of the adjoining land to handle the associated flow from the seeps were necessary to address environmental and legal concerns regarding the disposal of effluent from the RIBs.⁶³

Having determined that the Crabapple drainage system and land were used and useful in providing service, the question then becomes whether their subsequent retirement was necessary and appropriate. An extraordinary retirement allowance is appropriate where government regulations render utility plant wholly or partially obsolete or totally inefficient. Robert L. Hahn and Gregory E. Aliff, *Accounting for Public Utilities*, § 4.04[11][c], Matthew Bender (2016). Further, where a retirement involves the substitution of more efficient equipment or is for the public’s benefit, an amortization of the undepreciated plant being retired is appropriate. *Id.* This Commission has previously approved an amortization for extraordinary retirement of sewer utility facilities. For example, in *Application of Moore Sewer, Inc.*, Order No. 2003-477, Docket No. 2003-41-S (2003), we approved a five-year amortization of treatment plant when the utility ceased using it and interconnected with another utility.

Here, it is evident from the testimony of Mr. Stone that the construction of the Wateree

⁶² See, e.g., Hearing Exhibit 10, Surrebuttal Ex. WJM-3 at 2, para. 4, at 3-4, para.12, at 4, para. 14, at 7, para. 4, at 8, para.12, and at 11-12, para. 5.

⁶³ The fact that these concerns did not result in the issuance of a notice of violation or order by DHEC (*cf.* 10 S.C. Code Ann. R. 103-514.C(2012)), but was resolved by Consent Agreement to a corrective action plan resulting in the installation of the drainage system to transport flow from a seep or seeps (found by DHEC to be indicative of a discharge of effluent from the RIBs which may have affected local groundwater) does not prevent the Commission from concluding that these facilities were used and useful. To the contrary, this Consent Agreement demonstrates that it was necessary for Palmetto to install the facilities as part of the corrective action plan contemplated therein. *See Heater, supra.*

Discharge Pipeline and the concomitant shutdown of the RIBs were mandated by DHEC due to its concern regarding the RIBs' effect on local groundwater sources, the additional flow coming from the former PRC territory that the RIBs were not capable of handling, and the lack of other discharge alternatives.⁶⁴ Further, ORS has not asserted that the construction of the Wateree Discharge Pipeline was not prudent or necessary but, to the contrary, has included it in allowable plant for purposes of this case.

In light of the foregoing, the Commission makes three findings:

First, the Commission approves the removal of \$140,073 in operating and maintenance expenses related to the RIBs, as agreed to by both ORS and Palmetto.

Second, the Crabapple drainage system was necessary to address the seepage of effluent from the RIBs and was therefore appropriately included in Palmetto's disposal plant. Having recognized that this part of Palmetto's disposal plant is no longer used and useful in providing utility service as a result of the issues discussed above, the Commission further finds that Palmetto is entitled to the requested extraordinary retirement allowance of \$210,284, which may properly be amortized over the requested five-year period (resulting in an annual adjustment of \$42,056).

Third, the Commission agrees with ORS that an extraordinary retirement allowance is not warranted for the land adjoining Crabapple Lane acquired by Palmetto. As asserted by ORS, it is possible that the land could be sold. Therefore, an extraordinary retirement is not appropriate at this time.

4. INCOME TAX

In surrebuttal testimony, ORS proposed to reduce Palmetto's allowable income tax expense by applying the 21% rate for corporate income under the Federal Tax Cut and Jobs Act, Public Law 115-97 (the "Act") instead of the 34% rate which applies to the Company's 2017 federal income tax.⁶⁵ ORS also noted, however, (1) that "there are other components of the [Act]," (2) that it had "only accounted for the change in the ... rate," and (3) that it "reserved the right to implement

⁶⁴ Tr. p. 201, l.18 – p. 203, l.11.

⁶⁵ Tr. p. 426, ll. 5-10.

other components of the [Act] in future rate case proceedings” once it had conducted “a more thorough review of the [Act].”⁶⁶ On cross examination, Ms. Butler acknowledged that ORS has not performed a complete calculation of the impact of the Act on Palmetto’s corporate income taxes.⁶⁷

At the hearing, Mr. Daday asserted that the effect of the Act was not yet known and measurable because, even though the Act reduced the applicable tax rate, other provisions of the Act will increase Palmetto’s actual federal income tax liability.⁶⁸ He also pointed out that the Internal Revenue Service has not even had an opportunity to issue interpretations implementing the Act, which was only signed into law by the President on December 22, 2017.⁶⁹ Mr. Daday requested that Palmetto be given the same treatment as proposed by ORS for other jurisdictional utilities and be allowed to address the Act’s impact on Palmetto in the separate hearing in the near future before ORS.⁷⁰

The Commission finds that Mr. Daday’s assertion regarding the unknown implications of the Act is correct (and that ORS has acknowledged as much in its testimony). As an example, the Commission notes that section 13312(B) of the Act provides that CIAC will no longer to be treated as contribution to Palmetto’s capital, but instead will be treated as ordinary income. This amendment would increase Palmetto’s income for federal (and potentially state⁷¹) income tax purposes in 2018.⁷² Further, section 13301 of the Act limits the amount of interest deduction that can be claimed by a corporation. This, too, would appear to increase Palmetto’s federal and state

⁶⁶ Tr. p. 427, ll. 16-21.

⁶⁷ Tr. p. 433, l. 23 – p. 434, l.1.

⁶⁸ Tr. p. 241, ll. 6-21.

⁶⁹ Tr. p. 258, l. 23 – p. 259, l.1; Tr. p. 286, ll. 3-5.

⁷⁰ Tr. p. 241, ll. 6-24; Tr. p. 285, ll. 2-18.

⁷¹ See S.C. Code Ann. §§ 12-6-40 and 50 (provisions relating to adoption or non-adoption of federal income tax law for purposes of state income tax).

⁷² The Commission takes notice that a previous version of Palmetto’s approved rate schedule permitted the Company to require customers to pay a “tax multiplier” to allow it to recover the tax imposed on the receipt of a CIAC such as Palmetto’s \$800 plant impact fee. See, e.g., Order No. 88-311, issued March 23, 1988, in Docket No. 87-57-S, Appendix A at 3, paragraph 7. This provision was removed by the Commission in response to a subsequent amendment to Federal tax law. See Order No. 97-699, issued August 12, 1997, in Docket No. 96-376-S, at 5, paragraph 14 (“[r]emoval of the tax multiplier is simply consistent with the change in the law”).

income tax in 2018. In effect, ORS proposes to implement provisions of the Act that reduce taxes, but ignore the Act's provisions that (by its own admission) increase tax.

In view of the foregoing, the Commission cannot adopt ORS's proposed adjustment of the Company's income taxes, because the effect of the Act is not a known and measurable change. If the ORS position were adopted, it would require the Commission to impermissibly rely upon speculation as to what Palmetto's taxes will be in 2018. ORS and Palmetto will both have an opportunity to address the impact of the Act on Palmetto in Docket No. 2017-381-A. Thus, ORS's request to reduce test year operating revenues related to income tax savings is rejected.

5. RATE CASE EXPENSE

Palmetto proposed to include rate case expenses incurred in this rate case through December 31, 2017, which ORS has accepted as appropriate, amortized over three years.⁷³ Palmetto further proposed that additional rate case expense incurred through the date of hearing in this matter be included and ORS agreed to this proposal, subject to its review of the requested additional amount and examination of supporting documentation.⁷⁴ ORS has now advised the Commission that it received and reviewed the documentation supporting the additional rate case expenses requested by Palmetto and agrees with them. Because the additional rate case expenses are known and measurable, the Commission will allow them to be included in the total rate case expense and amortized over three years. This results in a rate case expense adjustment of \$51,993.

6. EXPENSE ADJUSTMENT SUMMARY

To summarize the foregoing, (1) allowable interest expense shall be \$2,145,274, (2) allowable sludge expense shall be \$382,053 (3) extraordinary retirement allowance shall be \$210,284 (over five years), (4) income tax expense shall be \$1,990,379 calculated at a 37.3% effective tax rate and (5) additional rate case expense of \$51,993 is allowed.

G. TOTAL INCOME FOR RETURN

⁷³ Tr.p.432, ll. 14-18; ORS submission to Commission, February 5, 2018, updating Audit Surrebuttal Exhibit ALB-1.

⁷⁴ Id.

Based upon the above determinations concerning the accounting and *pro forma* adjustments, and Palmetto's revenues and expenses, the total income for return is \$2,179,519, calculated as follows:

Operating Revenues	\$ 16,440,513
Operating Expenses	<u>14,301,662</u>
Net Operating Income	2,138,851
Customer Growth	40,668
Total Income for Return (Before Interest)	<u>\$2,179,519</u>

H. OPERATING MARGIN

Based upon Palmetto's gross revenues for the test year, after accounting and *pro forma* adjustments under the presently approved schedules, Palmetto's operating expenses for the test year after accounting and *pro forma* adjustments, and customer growth, Palmetto's present operating margin is as follows:

BEFORE RATE INCREASE

Operating Revenues	\$16,440,513
Operating Expenses	14,301,662
Net Operating Income	2,138,851
Customer Growth	40,668
Total Income for Return	<u>\$34,245</u>
Operating Margin (After Interest Expense of \$2,145,274)	0.21%

This operating margin is below the 17.98% which is currently authorized for Palmetto in Order No. 2015-153, the 16.12% which resulted from the rates proposed based on revenues and expenses contained in the Company's Application⁷⁵ and the 15% recommended by ORS⁷⁶. The Commission determines that Palmetto should have the opportunity to earn an additional \$5,643,651 in annual operating revenues, which results in an operating margin of 15.62%. The operating margin is calculated as follows:

⁷⁵ Tr. p. 334, ll.10-11.

⁷⁶ Tr. p. 432, ll. 1-4.

AFTER RATE INCREASE

Operating Revenues	\$22,084,164
Operating Expenses	16,593,132
Net Operating Income	5,491,032
Customer Growth	104,406
Total Income for Return	3,450,165
Operating Margin (After Interest Expense of \$2,145,274)	15.62%

The Commission concludes that an increase in rates is necessary and warranted. Palmetto's operating expenses have increased since its last rate case.⁷⁷ It has made significant investments in used and useful plant and facilities required to meet its obligations as a public utility and as a designated management agency under the 208 Plan.⁷⁸ The proposed rate increase is designed to generate additional revenues that will allow Palmetto to recover its operating costs, preserve its financial integrity, and to increase its earnings to a more reasonable level through fair charges to the consumer.⁷⁹

I. RATE DESIGN

Of the 24 customers and two other persons who spoke at the hearings in this matter, four opposed Palmetto's proposal to adopt a uniform monthly sewer service rate design which features a flat rate⁸⁰ and six customers currently charged a flat rate proposed that a consumption-based rate design be adopted.⁸¹ Palmetto's proposal to modify the rate design for customers in the former PRC service territory is based on three primary factors: elimination of the \$69,000 in charges currently imposed by the City for providing water consumption data to Palmetto, reduction in time spent by Palmetto personnel in addressing water billing errors and disputes between customers and the City, and the benefit of consolidating all aspects of the Company's services and billing efforts

⁷⁷ Tr. p. 333, l. 20 – p. 334, l. 3; Tr. p. 33, ll. 11-16; Tr. p. 225, ll. 14-19; Trp. 228, ll. 1-5.

⁷⁸ Tr. p. 225, ll. 14-19; Tr. p. 228, ll. 6-11; Tr. p. 195, ll. 6-21; Tr. p. 33, ll. 4-14.

⁷⁹ Tr. p.232, ll. 1-17; Tr. p. 336, l.19 – p. 337, l.2; Tr. p. 256, ll. 6-14

⁸⁰ Tr. p. 32, l. 18 – p. 33, l.18; Tr. p. 108, l.25 – p. 109, l.3; Tr. p. 113, l.11 – p. 104, l. 1; Tr. p. 116, l.23 – p. 117, l.1.

⁸¹ Tr. p. 45, ll. 7-20; Tr. p. 54, l.21 – p. 55, l. 5; Tr. p. 57, ll. 15-19; Tr. p. 73, ll. 2-3; Tr. p. 146, ll. 1-3; Tr. p. 155, l. 25 – p. 156, l.2.

into a single entity.⁸² ORS supports the Company's proposal.⁸³ For the reasons that follow, the Commission adopts the flat rate design proposed by the Company.

The Commission finds compelling Mr. Stone's point that the actual cost to treat wastewater is only a small component of the overall cost of service incurred to collect, transport, treat and dispose of wastewater.⁸⁴ In other words, substantially all of the cost of service arises from the Company's obligation to install and maintain facilities, not from the actual treatment of flow, rendering the amount of wastewater generated by a given customer less of a consideration in the distribution of the cost of service.⁸⁵

A number of the customers who oppose the flat rate design pointed out that it does not encourage them to conserve water and this is certainly true. But Palmetto is not in the water business, only wastewater.⁸⁶ As noted by Mr. Stone, a wastewater utility does not send anything to its customers, as do water, electric and gas utilities.⁸⁷ It only receives wastewater generated by customers and thus must have facilities to collect, transport and treat the amount of wastewater which each residential customer is capable of sending to the Company. Further, the Commission notes that customers receiving water from the City of Columbia have an incentive to conserve water given that they must pay for the water they use – regardless of whether that water is collected by Palmetto and transported to the WWTP for treatment and disposal.

The Commission is mindful that some of the Company's customers who reside in the former PRC service territory use less water than the average customer and that the flat rate design may not be to their advantage.⁸⁸ However, those customers will benefit from the reduced meter reading expenses – \$69,000 in the test year and which could be even higher in the future, as

⁸² Tr. p. 226, ll. 1-21.

⁸³ Tr. p. 386 l. 8 -- p. 387, l. 16.

⁸⁴ Tr. p. 288, l. 13 – p. 289, l. 6.

⁸⁵ Tr. p. 289, ll. 7-16.

⁸⁶ Tr. p. 291, ll. 23-24.

⁸⁷ Tr. p. 298, l.24 – p. 299, l. 10.

⁸⁸ Tr. p. 294, ll. 4-8.

Palmetto has no means to prevent the City from increasing this charge.⁸⁹ By the same token, there are other customers in the former PRC service territory who use higher amounts of water that does not get drained into the system (i.e., those customers who irrigate, fill swimming pools, wash vehicles, power wash residences, etc.), who will be paying a lower charge because that water is not included in the determination of their sewer charge. Most importantly, the *average* customer in the former PRC service territory will actually benefit from a uniform, flat rate as opposed to the original volumetric designs. Mr. Daday testified that the average customer in the former PRC service area uses approximately 637 cubic feet, or approximately 4,770 gallons of water per month.⁹⁰ In order to generate the \$6,298,881 in total annual service revenue that the Commission finds appropriate for Palmetto, the pro rata share of this amount is \$3,799,451 for customers in the Palmetto service area and \$2,499,430 for the customers in the former PRC service area. This is based on the number of single family equivalencies in each service area (i.e., 19,351 in the Palmetto service area and 12,730 in the former PRC service area).⁹¹ The monthly charge for the average customer in the former PRC service area would be \$58.25, while the flat monthly charge for a Palmetto customer would be \$52.86, if the two different rate designs are retained.

Our task is to design rates which “distribute fairly the revenue requirements of the [utility], considering the price at which the company’s service is rendered and the quality of that service.”⁹² *See Utilities Services, supra*, 392 S.C. at 113, 708 S.E.2d at 764, citing *Seabrook Island Property Owners Ass’n v. S.C. Public Service Comm’n*, 303 S.C. 493, 499, 401 S.E.2d 672, 675 (1991).

⁸⁹ Tr. p. 212, ll. 4-6; Trp. 226, ll. 14-16.

⁹⁰ Tr. p. 324, ll. 16-21.

⁹¹ Hearing Exhibit 11, Ex. MSH-2 at 2.

⁹² The Commission notes that it heard no complaints from customers regarding the quality of Palmetto’s utility service and only three complaints pertaining to billing. As to the latter, these involved customers not having been signed up for service after they moved into their premises served by Palmetto. [Tr. p. 71, l.8 -20; Tr. p. 91, l.9 – p. 92, l.2; Tr. p. 325, l.15 – p. 326, l. 6. The Commission accepts the Company’s explanation regarding the circumstances which led to these customers not receiving bills and acknowledges that the Company properly offered deferred payment plans to both customers. *See* 10 S.C. Code Ann. Regs. 103-532.5 (2012). [Tr.p. 310, l.1 – p. 312, l.21.] The Commission recognizes the limitations on Palmetto’s ability in many instances, independent of contact from a new customer, to ascertain when a new customer begins receiving service. The Company and customers benefit from Palmetto’s efforts to monitor such circumstances through vacancy surveys and tap fee audits [Tr. p.312, l. 24 – p. 313, l.11; Tr. p. 292, ll. 17-23] and the Commission encourages the Company to continue these efforts.

Thus, the Commission may determine that a rate design proposed by a utility might be unfair and warrant “a different method of raising the necessary revenues.” *Id.* However, in determining the fairness of the distribution of this revenue requirement, we are obligated to employ “an objective and measurable framework.” *Utilities Services, supra*, 392 S.C. at 113, 708 S.E.2d at 765. The Commission cannot conceive of a more objective and measurable framework to consider the fairness of a rate design than to compare how it impacts the average customers of the same utility who reside in different parts of the utility’s approved service territory. Here, the existing rate design employing consumption-based rates for the average customer in the former PRC service area would result in that customer paying a monthly charge that is 10.19% higher than a customer in the Palmetto service area paying a flat rate based upon an allocation of the total SFEs served by the Company and the revenues approved herein. While it is certainly true that some customers in the former PRC service area who utilize less than the average amount of water will be paying a higher monthly charge, the Commission must consider the overall impact of the proposed rate design on all customers. Having done so and employing an objective and measurable framework in the process, the Commission finds that the flat fee rate design proposed by the Company reduces expenses and fairly distributes Palmetto’s revenue requirement. Accordingly, we adopt the Company’s proposed rate design.

J. APPROVED RATES

In view of our determination regarding additional allowable revenues and rate design, the Commission approves a flat monthly sewer service rate of \$55.00 for Palmetto.

K. PLANT IMPACT FEES

Palmetto proposed in its Application that the current plant impact fees, connection fees, and customer account charges for new customers in the former PRC service area be reduced from \$2,640, \$1,300/\$300, and \$30, respectively, to the same level as those which apply to the Company’s other customers which are \$800, \$250, and \$20, respectively.⁹³ The current charges

⁹³ Application at 3, para. 4.c.

for these customers were approved in Order No. 2012-960 and reflect the charges then imposed by the City of Columbia. [*Id.*] According to Palmetto, this reduction in non-recurring charges (along with the proposed modification to the rate design for customers in the former PRC service area) would create a uniform, consolidated rate schedule that serves administrative economy and reduces the cost of administering multiple rate designs. [*Id.*]⁹⁴ In support of a reduction in these non-recurring charges, Mr. Daday reiterated Palmetto's goal of developing a single tariff and noted that the alternative – raising the non-recurring charges imposed on customers not in the former PRC service area – was not supportable because the City of Columbia rates and charges are not cost-based.⁹⁵ Mr. Daday further stated that the Company had understood that its plant impact fee was intended to recover only a portion of the cost of capacity, not its full cost⁹⁶, and that the \$800 plant impact fee had spurred growth in the historic Palmetto service territory.⁹⁷

ORS did not make any filing in response to Palmetto's request that the Application be accepted without specific cost-justifications for the proposed reduced non-recurring charges. Furthermore, although ORS asserted in its direct testimony that "[Palmetto] should establish non-recurring charges and fees at a sufficient level to recover the true cost" in order to avoid the potential for "a cost shift which impacts the Company's existing customers"⁹⁸, ORS accepted the reduction in these non-recurring charges for rate making purposes in its proposed accounting adjustments.⁹⁹

The Commission approves the reduction in these non-recurring charges for several reasons. First, granting Palmetto's requested waiver is appropriate as it is in the public interest that new customers not be charged non-recurring charges which are not cost-justified. As pointed out by

⁹⁴ In its Application, Palmetto also asserted that, because it sought a reduction and not an increase in these non-recurring charges, it was not required to comply with Commission Regulation 103-512.4.A(9) pertaining to cost-justification for proposed non-recurring charges, including tap fees. Alternatively, Palmetto requested that the Commission waive any requirement to provide cost-justification for the proposed reduced non-recurring charges as permitted by Commission Regulation 103-803. Application at 5, n.1.

⁹⁵ Tr. p. 245, l. 10- p. 246, l.2.

⁹⁶ Tr. p. 246, ll. 3-5.

⁹⁷ Tr. p.296, l. 21 – p. 297, l.13.

⁹⁸ Tr. p. 388, ll. 16-19.

⁹⁹ Hearing Exhibit 13, Surr. Ex. ALB-1, adjustment 11.

Palmetto, the \$2,640 plant expansion fee, the \$1,300/\$300 connection fee, and the \$30 customer account charge imposed by the City of Columbia and adopted in Order No. 2012-960 may well not be cost-justified as a matter of law given that the City of Columbia was, at the time, using utility revenue for general fund purposes. *See Azar v. City of Columbia*, 414 S.C. 307, 778 S.E.2d 315 (2015).¹⁰⁰ More to the point, non-recurring charges established by another (and unregulated) utility cannot be said to be cost-justified with respect to another, regulated utility's cost of connection and capacity. Second, the "tap fee" component of non-recurring charges is not required to recover all costs of making capacity available for a customer, but only a portion of those costs. *See* 10 S.C. Code Ann. Regs. 103-502.10 (2015). Therefore, to the extent ORS's premise that there is some "sufficient level to recover the true cost" suggests that all such costs must be covered by the non-recurring charge, it is inconsistent with our regulation. Third, continuing to have non-recurring charges which differ among new customers served by the same utility makes little sense and would potentially discourage development in one part of the Company's service area in favor of another part. Palmetto's proposal to provide for uniform non-recurring charges for all new customers is therefore in the public interest as it will encourage equal economic development in all parts of the Company's service area. *Cf.* S.C. Code Ann. § 58-4-10(B)(2).

IV. CONCLUSION

Based upon the above considerations and reasoning, the Commission hereby approves the rates and charges as stated in this Order and attached hereto as Appendix A as being just and reasonable.

IT IS THEREFORE ORDERED THAT:

1. The rates and charges attached on Appendix A are approved for service rendered on or after March 5, 2018, and this rate schedule is hereby deemed to be filed with the Commission pursuant to S.C. Code Ann § 58-5-240 (2015).

2. Should the approved schedule not be placed into effect before three months after

¹⁰⁰ "[T]he law requires some nexus between the City's provision of water and sewer services and the underlying purpose of each expenditure or transfer of water and sewer funds. Simply put, the statutes do not allow these revenues to be treated as a slush fund." *Id.*, 414 S.C. at 317, 778 S.E.2d at 320.

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the effective date of this Order, then the approved schedule shall not be charged without written permission of the Commission.

3. Palmetto shall maintain its books and records for its operations in accordance with the NARUC Uniform System of Accounts for Class A utilities, as adopted by the Commission.

4. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Chairman

ATTEST:

Vice Chairman
(SEAL)

APPENDIX A

PALMETTO UTILITIES, INC.
 1710 WOODCREEK FARMS ROAD
 COLUMBIA, SC 29045
 (803) 699-2422

SEWER RATE SCHEDULE
Effective Date: _____, 2018

1. **MONTHLY CHARGE**

- a. Residential - Monthly charge per
single-family house, condominium,
villa or apartment unit \$55.00
- b. Commercial - Monthly charge per
single-family equivalent \$55.00
- c. The monthly charges listed above are minimum charges and shall apply even if the equivalency rating is less than one (1). If the equivalency rating is greater than one (1), then the monthly commercial charges may be calculated by multiplying the equivalency rating by the monthly charge of \$55.00. The monthly residential charge shall be \$55.00 regardless of the equivalency rating.

Commercial customers are those not included in the residential category above and include, but are not limited to, hotels, stores, restaurants, offices, industry, etc.

The Utility may, for the convenience of the owner, bill a tenant in a multi-unit building, consisting of four or more residential units which is served by a master sewer meter or a single sewer connection. However, in such cases all arrearages must be satisfied before service will be provided to a new tenant or before interrupted service will be restored. Failure of an owner to pay for services rendered to a tenant in these circumstances may result in service interruptions.

2. **NONRECURRING CHARGES**

- a. Sewer service connection charge per
single-family equivalent \$250.00

- b. Plant Impact fee per single-family equivalent \$800.00
- c. The nonrecurring charges listed above are minimum charges and apply even if the equivalency rating is less than one (1). If the equivalency rating is greater than one (1), then the proper charge may be obtained by multiplying the equivalency rating by the appropriate fee. These charges apply and are due at the time new service is applied for, or at the time connection to the sewer system is requested.

3. **BULK TREATMENT SERVICES**

The Utility will provide bulk treatment services to Richland County ("County") upon request by the County in the portion of the service territory for which the utility acts as the County's contractual agent for purposes of discharging the County's designated management agency function under the Federal Clean Water Act Section 208 water quality management plan adopted by the Central Midlands Council of Governments. The rates for such bulk treatment services shall be as set forth above for both monthly charges and nonrecurring charges per single-family equivalent. The County shall certify to the Utility the number of units or taps (residential and commercial) which discharge wastewater into the County's collection system and shall provide all other information required by the Utility in order that the Utility may accurately determine the proper charges to be made to the County. The County shall insure that all commercial customers comply with the Utility's toxic and pretreatment effluent guidelines and refrain from discharging any toxic or hazardous materials or substances into the collection system. The County will maintain the authority to interrupt service immediately where customers violate the Utility's toxic or pretreatment effluent standards of discharge prohibited wastes into the sewer system. The Utility shall have the unfettered right to interrupt bulk service to the County if it determines that forbidden wastes are being or are about to be discharged into the Utility's sewer system.

The County shall pay for all costs of connecting its collection lines into the Utility's mains, installing a meter of quality acceptable to the Utility to measure flows, and constructing a sampling station according to the Utility's construction requirements.

4. **NOTIFICATION, ACCOUNT SET-UP AND RECONNECTION CHARGES**

- a. Notification Fee: A fee of \$25.00 shall be charged each customer to whom the Utility mails the notice as required by Commission Rule R.103-535.1 prior to service being discontinued. This fee assesses a portion of the clerical and mailing costs of such notices to the customers creating that cost.
- b. Customer Account Charge: A fee of \$20.00 shall be charged as a one-time fee to defray the costs of initiating service.

- c. Reconnection charges: In addition to any other charges that may be due, a reconnection fee of \$250.00 shall be due prior to the Utility reconnecting service which has been disconnected for any reason set forth in Commission Rule R.103-532.4. Where an elder valve has been previously installed, a reconnection charge of thirty-five dollars (\$35.00) shall be due. The amount of the reconnection fee shall be in accordance with R.103-532.4 and shall be changed to conform with said rule as the rule is amended from time to time.

5. **BILLING CYCLE**

Recurring charges will be billed monthly in arrears. Nonrecurring charges will be billed and collected in advance of service being provided.

6. **LATE PAYMENT CHARGES**

Any balance unpaid within twenty-five (25) days of the billing date shall be assessed a late payment charge of one and one-half (1½%) percent.

7. **TOXIC AND PRETREATMENT EFFLUENT GUIDELINES**

The Utility will not accept or treat any substance or material that has been defined by the United States Environmental Protection Agency ("EPA") or the South Carolina Department of Health and Environmental Control ("DHEC") as a toxic pollutant, hazardous waste, or hazardous substance, including pollutants falling within the provisions of 40 CFR §§ 129.4 and 401.15. Additionally, pollutants or pollutant properties subject to 40 CFR §§ 403.5 and 403.6 are to be processed according to the pretreatment standards applicable to such pollutants or pollutant properties, and such standards constitute the Utility's minimum pretreatment standards. Any person or entity introducing any such prohibited or untreated materials into the Company's sewer system may have service interrupted without notice until such discharges cease, and shall be liable to the Utility for all damages and costs, including reasonable attorney's fees, incurred by the Utility as a result thereof.

8. **REQUIREMENTS AND CHARGES PERTAINING TO SATELLITE SYSTEMS**

- a. Where there is connected to the Utility's system a satellite system, as defined in DHEC Regulation 61-9.505.8 or other pertinent law, rule or regulation, the owner or operator of such satellite system shall operate and maintain same in accordance with all applicable laws, rules or regulations.
- b. The owner or operator of a satellite system shall construct, maintain, and operate such satellite system in a manner that the prohibited or untreated materials referred to in Section 6 of this rate schedule (including but not limited to Fats, Oils, Sand or Grease), stormwater, and groundwater are not introduced into the Utility's system.

- c. The owner or operator of a satellite system shall provide Utility with access to such satellite system and the property upon which it is situated in accordance with the requirements of Commission Regulation 103-537.
- d. The owner or operator of a satellite system shall not less than annually inspect such satellite system and make such repairs, replacements, modifications, cleanings, or other undertakings necessary to meet the requirements of this Section 7 of the rate schedule. Such inspection shall be documented by written reports and video recordings of television inspections of lines and a copy of the inspection report received by the owner or operator of a satellite system, including video of the inspection, shall be provided to Utility. Should the owner or operator fail to undertake such inspection, Utility shall have the right to arrange for such inspection and to recover the cost of same, without mark-up, from the owner or operator of the satellite system.
- e. Should Utility determine that the owner or operator of a satellite system has failed to comply with the requirements of this Section 8 of the rate schedule, with the exception of the requirement that a satellite system be cleaned, the Utility may initiate disconnection of the satellite system in accordance with the Commission's regulations, said disconnection to endure until such time as said requirements are met and all charges, costs and expenses to which Utility is entitled are paid. With respect to the cleaning of a satellite system, the owner or operator of a satellite system shall have the option of cleaning same within five (5) business days after receiving written notice from Utility that an inspection reveals that a cleaning is required. Should the owner or operator of such a satellite system fail to have the necessary cleaning performed within that time frame, Utility may arrange for cleaning by a qualified contractor and the cost of same, without mark-up, may be billed to the owner or operator of said system.

9. **CONSTRUCTION STANDARDS**

The Utility requires all construction to be performed in accordance with generally accepted engineering standards, at a minimum. The Utility from time to time may require that more stringent construction standards be followed in constructing parts of the system.

10. **EXTENSION OF UTILITY SERVICE LINES AND MAINS**

The Utility shall have no obligation at its expense to extend its utility service lines or mains in order to permit any customer to discharge acceptable wastewater into its sewer system. However, anyone or any entity which is willing to pay all costs associated with extending an appropriately sized and constructed main or utility service line from his/her/its premises to an appropriate connection point on the Utility's sewer system may receive service, subject to paying the appropriate fees and charges set forth in this rate

schedule, complying with the guidelines and standards hereof, and, where appropriate, agreeing to pay an acceptable amount for multi-tap capacity.

11. **CONTRACTS FOR MULTI-TAP CAPACITY**

The Utility shall have no obligation to modify or expand its plant, other facilities or mains to treat the sewerage of any person or entity requesting multi-taps (a commitment for five or more taps) unless such person or entity first agrees to pay an acceptable amount to the Utility to defray all or a portion of the Utility's costs to make modifications or expansions thereto.

12. **SINGLE FAMILY EQUIVALENT**

A single family equivalent (SFE) shall be determined by using the South Carolina Department of Environmental Control Guidelines for Unit Contributory Loading for Domestic Wastewater Treatment Facilities --6 S.C. Code Ann. Regs. 61-67 Appendix A (Supp. 2016). Where the Utility has reason to suspect that a person or entity is exceeding design loadings established by the Guidelines for Unit Contributory Loadings for Domestic Wastewater Treatment Facilities, the Utility shall have the right to request and receive water usage records from the provider of water to such person or entity. Also, the Utility shall have the right to conduct an "on premises" inspection of the customer's premises. If it is determined that actual flows or loadings are greater than the design flows or loadings, then the Utility shall recalculate the customer's equivalency rating based on actual flows or loadings and thereafter bill for its services in accordance with such recalculated loadings.